

LEGISLATIVE BILL 481

Approved by the Governor May 16, 2007

Introduced by Johnson, 37

FOR AN ACT relating to the Uniform Licensing Law; to amend sections 71-101, 71-104.01, and 71-131, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to criminal background checks and certain licensing examinations as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-101, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, section 4 of this act, and the Physical Therapy Practice Act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board or professional board means one of the boards appointed by the State Board of Health pursuant to sections 71-111 and 71-112;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, means a person licensed under the Uniform Licensing Law;

(3) Profession or health profession means any of the several groups named in section 71-102;

(4) Department means the Department of Health and Human Services Regulation and Licensure;

(5) Whenever a particular gender is used, it is construed to include both the masculine and the feminine, and the singular number includes the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure means permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, means a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate means a document issued by the department which designates particular credentials for an individual;

(8) Lapse means the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so;

(9) Credentialing means the totality of the process associated with obtaining state approval to provide health care services or human services or changing aspects of a current approval. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the services of a certain profession. Credential includes a license, certificate, or registration; and

(10) Dependence means a compulsive or chronic need for or an active addiction to alcohol or any controlled substance or narcotic drug.

Sec. 2. Section 71-104.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-104.01 (1) An applicant for an initial license to practice a profession which is authorized to prescribe controlled substances shall be subject to a criminal background check. ~~The~~ Except as provided in subsection (3) of this section, the applicant shall submit with the application a full set of fingerprints which shall be forwarded to the Nebraska State Patrol to be submitted to the Federal Bureau of Investigation for a national criminal history record information check. The applicant shall authorize release of the results of the national criminal history record information check to the department. The applicant shall pay the actual cost of the fingerprinting and criminal background check.

(2) This section shall not apply to dentists who are applicants for temporary practice rights under subdivision (5) of section 71-183.01 or to

physicians and surgeons who are applicants for temporary practice rights under subdivision (9) of section 71-1,103.

(3) An applicant for a temporary educational permit as defined in section 71-1,107.01 shall have ninety days from the issuance of the permit to comply with subsection (1) of this section and shall have his or her permit suspended after such ninety-day period if the criminal background check is not complete or revoked if the criminal background check reveals that the applicant was not qualified for the permit.

Sec. 3. Section 71-131, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-131 (1) In the absence of any specific requirement or provision relating to any particular profession:

(a) The department may, upon the recommendation of the designated professional board, adopt and promulgate rules and regulations to specify the passing grade on licensure or certification examinations. In the absence of such rules and regulations, an examinee shall be required to obtain an average grade of seventy-five and shall be required to obtain a grade of sixty in each subject examined;

(b) A person who desires to take a licensure or certification examination but does not wish to receive a license or certification may take such examination by meeting the examination eligibility requirements and paying the cost of the examination; and

(c) An examinee who fails a licensure or certification examination may retake the entire examination or the part failed upon payment of the licensure or certification fee each time he or she is examined. The department shall withhold from the licensure or certification fee the cost of any national examination used when an examinee fails a licensure or certification examination and shall return to the examinee the remainder of the licensure or certification fee collected subject to section 71-162.05, except that:

(i) If the state-developed jurisprudence portion of the licensure or certification examination was failed, the examinee may retake that portion without charge; and

(ii) If any component of a national examination was failed, the examinee shall be charged the cost for purchasing such examination.

(2) In pharmacy, all applicants shall be required to attain a grade to be determined by the Board of Pharmacy in an examination in pharmacy and a grade of seventy-five in an examination in jurisprudence of pharmacy.

(3) In social work, the passing criterion for such examination shall be established and may be changed by the Board of Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all the requirements for certification without examination pursuant to section 71-1,319 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(4) In professional counseling, the passing criterion for such examination shall be established and may be changed by the Board of Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(5) In marriage and family therapy, the passing criterion for such examination shall be established and may be changed by the Board of Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to section 71-1,329 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

~~(6) Applicants for licensure in medicine and surgery and osteopathic medicine and surgery shall pass the licensing examination. An applicant who fails to pass any part of the licensing examination within four attempts shall complete one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. All parts of the licensing examination shall be successfully completed within seven years, except that if the applicant has been enrolled in a combined doctorate of medicine and doctorate of philosophy degree program in an accredited school or college of medicine, all parts of the licensing examination shall be successfully completed within ten years. An applicant who fails to successfully complete the licensing examination within the time allowed shall retake that part of the examination which was not completed within the time allowed.~~

~~(7)~~ (6) In medical nutrition therapy, the passing criterion for such examination shall be established and may be changed by the Board of Medical Nutrition Therapy by rule and regulation. Such examination shall test for the

essential clinical elements of the field of medical nutrition therapy. The board shall base all of its actions on broad categorical parameters derived from the essential elements of the field of medical nutrition therapy and shall not endorse nor restrict its assessment to any particular nutritional school of thought. The board may exempt an applicant from the written examination if he or she meets all of the requirements for licensure without examination pursuant to section 71-1,291 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

~~(8)~~ (7) In alcohol and drug counseling, the Board of Alcohol and Drug Counseling shall approve a licensing examination and establish the passing criterion for such examination, which meets or exceeds the minimum international standards for alcohol and drug counselors established by the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc. or its successor.

Sec. 4. Applicants for licensure in medicine and surgery and osteopathic medicine and surgery shall pass the licensing examination. An applicant who fails to pass any part of the licensing examination within four attempts shall complete one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. All parts of the licensing examination shall be successfully completed within ten years. An applicant who fails to successfully complete the licensing examination within the time allowed shall retake that part of the examination which was not completed within the time allowed.

Sec. 5. Original sections 71-101, 71-104.01, and 71-131, Revised Statutes Cumulative Supplement, 2006, are repealed.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.